**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM No.26148-CII of 2014 in/and
FAO No.355 of 1999
Date of decision: 10.07.2017**

Rajwant Kaur and others

….Appellants

Versus

Hari Singh and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ankur Sharma, Advocate,
for Mr. Nitin Mittal, Advocate,
for the appellants.

Mr. Aman Sharma, Advocate,
for respondent Nos.2 and 3.

RITU BAHRI J. (Oral)

CM No.26148-CII of 2014

In view of the averments mentioned in the application, same is allowed and the main appeal i.e. FAO No.355 of 1999 is taken up today itself for disposal.

FAO No.355 of 1999

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 12.11.1998, on account of death of Gurbachan Singh in a motor vehicular accident which took place on 10.10.1997. Appellant No. 1 is widow, appellant Nos.2 to 4 are children and appellant Nos.5 and 6 are parents of deceased Gurbachan Singh.

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FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.10.1997, Gurbachan Singh (deceased) who was working as conductor in Depot No.1, PRTC, Patiala (respondent No.3), was deputed to perform his duty on Bus No. PLG-7189. At about 2.00 P.M., he was present at bus stand, Patiala. In the meantime, Hari Singh-respondent No.1, driver of Bus No. PB-11-9051, suddenly reversed his bus in a rash & negligent manner and struck the same with Gurbachan Singh, as a result of which, he received multiple injuries on his head, chest and other parts of the body. Thereafter, Gurbachan Singh was taken to Rajendra Hospital, Patiala, but he succumbed to the injuries in the way. The accident was witnessed by Daljit Singh, Babu Singh and some other persons. With regard to the incident, FIR No.228 dated 10.10.1997 was registered at Police Station, Kotwali, Patiala on a statement made by Amrik Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of offending bus by Hari Singh-respondent No.1, as a result of which Gurbachan Singh has died and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Amrik Singh (PW-6), Babu Singh (PW-7) and Daljit Singh (PW-8), who were eye witnesses of the accident. Ultimately, the claim petition was accepted by the Tribunal. As per salary certificate, Ex.P/6, the deceased was getting salary of Rs.3500/- per month. Therefore, the income of the deceased was taken as Rs.3500/- per month i.e.

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Rs.42,000/- per annum. After deduction towards personal expenses of deceased, the dependency of claimants, came to Rs.28000/- per annum. The deceased was 40 years of age at the time of accident/death and the multiplier of 15 was applied. Thus, the claimants were found entitled to compensation of Rs.4,20,000/-. Out of this amount, Rs.5000/- has been reduced by the Tribunal, as this much amount was paid by respondent Nos. 2 and 3 to claimant Rajwant Kaur at the time of *bhog* ceremony of the deceased. In addition to it, Rs.2000/- were awarded towards funeral expenses, Rs.2500 as loss of estate and Rs.5000/- as loss of consortium to widow-Rajwant Kaur. Hence, the claimants were found entitled to total compensation of Rs.4,24,500/- along with interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments of ***Asha Verman and others vs. Maharaj Singh and others***, **2015(2) RCR (Civil) 520**, ***New India Assurance Company Limited vs Gopali and others,*** **2012 (12) SCC 198**, ***Sarla Verma and others vs. Delhi Transport Corporation and another***, **2009 (3) RCR (Civil) Page 77**, ***Rajesh and others vs. Rajbir Singh and others***, **2013 (9) SCC 54** and ***Munna Lal Jain and another vs. Vipin Kumar Sharma and others*****, 2015(3) Recent Apex Judgments 459,**

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as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3500/- per month
(ii)	50% of (i) above to be added as future prospects	3500 + 1750 = Rs.5250/-
(iii)	1/4th of (ii) above is deducted as personal expenses of the deceased	5250 – 1300 = Rs.3950/-
(iv)	Compensation after multiplier of 15 is applied	Rs.3950/- x 12 x 15 = Rs.7,11,000/-
(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.50,000/-
(vii)	Loss of love and affection for the children	Rs.1,50,000/- (Rs.50,000/- each)
(viii)	Loss of love and affection for the parents	Rs.1,00,000/-
(ix)	Funeral expenses	Rs.25,000/-
(x)	**TOTAL COMPENSATION AWARDED**	**Rs.11,36,000/-**
(xi)	**Enhanced amount of compensation**	**Rs.11,36,000 – 4,24,500 = Rs.7,11,500/-**

The enhanced amount of compensation of **Rs.7,11,500/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of "***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others",* 2015(1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

10.07.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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